

CHAPTER 406**(HB 856)**

AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

- (1) *Within five (5) working days of the filing of an ordinary administrative regulation that proposes to establish or increase fees, except those fees exempted by KRS 13A.100(3), an administrative body shall mail a notice containing the information required by subsection (2) of this section, to each state association, organization, or other body representing a person or entity affected by the administrative regulation.*
- (2) *The notice shall include the following information:*
 - (a) *The name of the administrative body that filed the proposed administrative regulation;*
 - (b) *A statement that the administrative body has promulgated an administrative regulation that establishes or increases fees;*
 - (c) *A summary of the administrative regulation that includes:*
 1. *The amount of each fee being established;*
 2. *The amount of any increases to any fees previously established; and*
 3. *The necessity for the establishment or increase in the fees;*
 - (d) *A statement that a person or entity may contact the administrative body for additional information;*
 - (e) *The time, date, and place of the scheduled public hearing; and*
 - (f) *The name, address, and telephone number of the contact person for the administrative body.*

Section 2. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations.~~{ }~~
- (2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:
 - (a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public;~~{ }~~
 - (b) Declaratory rulings;~~{ }~~

- (c) Intradepartmental memoranda not in conflict with KRS 13A.130;~~{;}~~
 - (d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or
 - (e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions.~~{;}~~
- (3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter.~~{;}~~
 - (4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations.~~{;}~~—(5) "Commission" means the Legislative Research Commission.~~{;}~~
 - (6) "Economic impact" means a financial impact on:
 - (a) Commercial enterprises;
 - (b) Retail businesses;
 - (c) Service businesses;
 - (d) Industry;
 - (e) Consumers of a product or service; or
 - (f) Taxpayers.~~{;}~~
 - (7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by *Sections 16, 19, and 22 of this Act.*~~{KRS 13A.290 and 13A.330;}~~
 - (8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth.~~{;}~~
 - (9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245.~~{;}~~
 - (10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter.~~{;}~~
 - (11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A.~~{;}~~
 - (12) "Proposed administrative regulation~~{,}~~"~~{ except as provided by KRS 13A.015(6),}~~ means an administrative regulation that an administrative body proposes to promulgate.~~{;}~~
 - (13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240.~~{;}~~
 - (14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise

statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation.~~{;}~~

- (15) "Subcommittee" *means*~~{includes}~~ the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, *an interim joint committee*~~{a standing committee of the General Assembly}~~, or a House and Senate standing committee.~~{meeting jointly; and}~~
- (16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 3. KRS 13A.017 is amended to read as follows:

- (1) If an administrative body cancels a *notice of intent*~~{notice of intent}~~ public hearing because it has not received a request for a *notice of intent*~~{notice of intent}~~ public hearing pursuant to subsection (3) of KRS 13A.015, the administrative body shall immediately notify the regulations compiler in writing and by telephone that it has canceled the *notice of intent*~~{notice of intent}~~ public hearing.
- (2) Following a public hearing on a proposed administrative regulation held pursuant to the provisions of KRS 13A.015, the administrative body shall give consideration to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing.
- (3) The administrative body shall file with the Commission within forty-five (45) days following the date the public hearing was scheduled, a statement:
- (a) Identifying the persons who submitted written comments, or attended the public hearing;~~{and}~~
 - (b) Containing a summary of the:
 1. Comments received or made at the public hearing; and
 2. Its response to the comments; *and*
 - (c) *In the same format as the statement of consideration required by subsection (4) of Section 15 of this Act.*
- (4) The administrative body shall provide a copy of the summary to any person who attended the public hearing and requested that a copy of the summary be provided.
- (5) The regulations compiler shall transmit a copy of the summary to a legislator upon request.
- (6) If the administrative body promulgates an administrative regulation that was the subject of a public hearing required under the provisions of this section and KRS 13A.015, the regulations compiler shall transmit a copy of the summary to a legislator upon request.
- ~~(7) The administrative body shall provide a copy of the summary to persons who attended the public hearing and requested that a copy of the summary be provided.~~
- ~~(8) If an administrative body determines that it will file an administrative regulation, it shall file the administrative regulation for which a notice of intent was filed within one hundred twenty (120) calendar days of the date on which the *notice of intent*~~{notice of intent}~~ public hearing was scheduled. ~~{Except as provided by subsection (10) of this section,}~~ If an administrative regulation is not filed within one hundred twenty (120) calendar days of the date on which~~

the *notice of intent*~~[notice of intent]~~ public hearing was scheduled, the notice of intent shall expire.

~~(8)(9)~~ If the administrative body determines that it will not file an ordinary administrative regulation for which a notice of intent was filed, it shall notify the regulations compiler of its determination, in writing, within one hundred twenty (120) calendar days of the date on which the *notice of intent*~~[notice of intent]~~ public hearing was scheduled.

~~[(10) (a) — A notice of intent filed prior to July 15, 1996, for which an administrative regulation has not been filed, shall expire on July 15, 1998.~~

~~(b) — Except as provided by paragraph (a) of this subsection, a notice of intent filed prior to July 15, 1998, for which an administrative regulation has not been filed, shall expire one hundred eighty (180) calendar days following the date on which the notice of intent public hearing was scheduled.]~~

Section 4. KRS 13A.030 is amended to read as follows:

(1) The Administrative Regulation Review Subcommittee shall:

- (a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including but not limited to, review of new, emergency, and existing administrative regulations, the lack of administrative regulations, and the needs of administrative bodies;
- (b) Except as provided by KRS 158.6471 and 158.6472, review and comment upon administrative regulations submitted to it by the Commission;
- (c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them; and
- (d) Conduct such other studies relating to administrative regulations as may be assigned by the Commission.

(2) The subcommittee may make a nonbinding determination:

- (a) That an administrative regulation *is deficient because it*:
 1. Is wrongfully promulgated;
 2. Appears to be in conflict with an existing statute;
 3. Appears to have no statutory authority for its promulgation;
 4. Appears to impose stricter or more burdensome state requirements than required by the federal mandate, without reasonable justification;
 5. Fails to use tiering when tiering is applicable;
 6. Is in excess of the administrative body's authority; or
 7. Appears to be deficient in any other manner;
- (b) That an administrative regulation is needed to implement an existing statute; *or* (c) That an administrative regulation should be amended or repealed.

- (3) The subcommittee may require any administrative body to submit data and information as required by the subcommittee in the performance of its duties under this chapter, and no administrative body shall fail to provide the information or data required.

Section 5. KRS 13A.032 is amended to read as follows:

A finding of *deficiency made in accordance*~~[noncompliance]~~ with KRS 13A.030(2)(a) made by a subcommittee shall establish a prima facie case of legislative intent in any action or proceeding in this state in which the validity of an administrative regulation is at issue. Upon such finding, the Legislative Research Commission may institute legal proceedings in Franklin Circuit Court.

Section 6. KRS 13A.070 is amended to read as follows:

- (1) The Commission shall promulgate administrative regulations governing the manner and form in which administrative regulations shall be prepared, to the end that all administrative regulations shall be prepared in a uniform manner. The compiler shall refuse to accept for filing any administrative regulation that does not conform to *KRS Chapter 13A*~~[13A.220 to 13A.250]~~ and the administrative regulations *promulgated*~~[issued]~~ thereunder.
- (2) The Commission shall furnish advice and assistance to all administrative bodies in the preparation of their administrative regulations, and in revising, codifying, and editing existing or new administrative regulations.

Section 7. KRS 13A.190 is amended to read as follows:

- (1) An emergency administrative regulation is one that:
- (a) Must be placed into effect immediately in order to:
1. Meet an imminent threat to public health, safety, or welfare;~~[-or]~~
 2. Prevent a loss of federal *or state* funds;~~[-or]~~
 3. Meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation; or
 4. Protect human health and the environment; and
- (b) 1. Is temporary in nature and will expire as provided in this section; or
2. Is temporary in nature and will be replaced by an ordinary administrative regulation as provided in this section.
- (2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next Administrative Register.
- (3) (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred seventy (170) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.
- (b) If an administrative body extends the public comment period as provided by KRS 13A.270(1), or extends the time for filing a statement of consideration as provided by KRS 13A.280(3), an emergency administrative regulation shall remain in effect for one hundred seventy (170) days after the date of publication plus the number of days extended under the provisions of KRS 13A.270(1) or 13A.280(3), as applicable.

- (4) An emergency administrative regulation shall not be renewed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously-filed emergency administrative regulation shall be promulgated.
- (5) When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.
- (6) Each emergency administrative regulation shall contain a statement of:
 - (a) The nature of the emergency;
 - (b) The reasons why an ordinary administrative regulation is not sufficient;
 - (c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;
 - (d) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and
 - (e) If applicable, the explanation required by subsection (5) of this section.
- (7) An administrative body shall attach the:
 - (a) Statement of emergency required by subsection (6) of this section to the front of the original and each copy of a proposed emergency administrative regulation; and
 - (b) Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.
- (8) If an emergency administrative regulation will not be replaced by an ordinary administrative regulation, the administrative body shall schedule a public hearing pursuant to KRS 13A.270(1). The public hearing information required by KRS 13A.270(2) shall be attached to the back of the emergency administrative regulation.
- (9) ***The statement of emergency shall have a two (2) inch top margin***~~[A space no smaller than four (4) inches wide by two (2) inches long in the upper right hand corner of the statement shall be left blank for the regulations compiler's stamp]~~. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."
- (10) Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.
- (11) (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.

- (b) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.
- (12) (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.
- (b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.
- (c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.
- (13) A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be ~~withdrawn~~~~revoked~~.

Section 8. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

- (1) An administrative body shall file with the regulations compiler:
 - (a) The original and five (5) copies of an administrative regulation; and
 - (b) At the same time the original and five (5) copies are filed, an electronic version, if available, of the administrative regulation and required attachments on a diskette or by e-mail in an electronic format approved by the regulations compiler.
- (2) The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.
- (3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.
- (4) The format of an administrative regulation shall be as follows:
 - (a) An administrative regulation shall be typewritten on white paper, size eight and onehalf (8-1/2) by eleven (11) inches and shall be double-spaced. The first page shall have a two (2) inch top margin~~, and one (1) inch side and bottom margins~~. Subsequent pages shall have one (1) inch top, bottom, and side margins. The administrative regulation shall be typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered~~, with twenty three (23) lines to a page~~. Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;
 - (b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;

- (c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "*(New Administrative Regulation)*," "(Amendment)"~~[-or]~~ "(Amended After Hearing)," *or* "*(Repealer)*" whichever is applicable~~[-. If an administrative regulation is new, the notation shall read "(New Administrative Regulation)"];~~
- (d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;
- (e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and
- (f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b).
- (5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an arabic number followed by a period, (e.g., 1., 2., etc.). *Clauses*~~[Sub-subparagraphs]~~ shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.).
- (6) After the complete text of an administrative regulation, the administrative body shall include the following information:
- (a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;
- (b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;

- (c)~~]~~—~~The signature of an attorney certifying that he has examined and approved the administrative regulation as to form;~~
- ~~(d)]~~—Information relating to public hearings as required by KRS 13A.160 and 13A.270; and
- ~~(d)]~~~~(e)]~~—The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:
1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;
 2. Negotiate changes in language with a subcommittee in order to resolve such issues; and
 3. Answer questions relating to the administrative regulation.
- (7) The format for signatures required by paragraphs (a) **and (b)**~~(c)-(e)]~~ of subsection (6) of this section shall be as follows:
- (a) The signature shall be placed on a signature line; and
 - (b) The name and title of the person signing shall be typed immediately beneath the signature line.

Section 9. KRS 13A.221 is amended to read as follows:

- (1) An administrative body shall divide the general subject matter of administrative regulations it promulgates into topics. A separate administrative regulation shall be promulgated for each topic.
- (2) An administrative body shall not incorporate all material relating to a general subject matter in one (1) administrative regulation. Material incorporated by reference shall be incorporated by reference in the administrative regulation governing the specific topic to which the material relates.
- (3) When an administrative regulation~~[adopted prior to July 15, 1988,]~~ is amended, it shall be amended or repealed, whichever is applicable, to comply with the requirements of **KRS Chapter 13A**~~[this section]~~.

Section 10. KRS 13A.222 is amended to read as follows:

- (1) In a new administrative regulation, there shall be no underlining or bracketing.
- (2) In an amendment to an administrative regulation, the new words shall precede the deleted words. Exceptions may be permitted by the regulations compiler. The administrative body shall:
 - (a) Underline all new words; and
 - (b) Place the deleted words in brackets and strike through these words.
- (3)
 - (a) An administrative regulation shall not be amended by reference to a section only. An amendment shall contain the full text of the administrative regulation being amended.
 - (b) A section of an administrative regulation shall not be reserved for future use.
- (4) In drafting administrative regulations, the administrative body shall comply with the following:

- (a) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases;
- (b) A duty, obligation, or prohibition shall be expressed by "shall" or "shall not." "Should," "could," or "must" shall not be used. The future tense shall not be expressed by the word "shall." A discretionary power shall be expressed by "may;"
- (c) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or" and shall not separate alternatives with a slash. It shall not use contractions. When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word "or" shall be used;
- (d) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in a proposed administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which such definitions appear;
- (e) If definitions are used, they shall be placed in alphabetical order in the first section of an administrative regulation or in a separate administrative regulation. The section or administrative regulation shall be titled "Definitions." If definitions are placed in the first section of an administrative regulation, the definitions shall govern only the terms in that administrative regulation. If definitions are placed in a separate administrative regulation, that administrative regulation shall be the first administrative regulation of the specific chapter of the Kentucky Administrative Regulations Service to which the definitions apply. The title of the administrative regulation shall also contain the number of the chapter of the Kentucky Administrative Regulations Service to which the definitions apply. In the text of an administrative regulation, the word defined in the definitions section, rather than the definition, shall be used. Definitions shall be used only:
 - 1. When a word is used in a sense other than its dictionary meaning, or is used in the sense of one of several dictionary meanings;
 - 2. To avoid repetition of a phrase; or
 - 3. To limit or extend the provisions of an administrative regulation;
- (f) If a word has the same meaning as a phrase, the word shall be used;
- (g) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed;
- (h) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations;
- (i) "If" or "except" shall be used rather than "provided that" or "provided, however." "If" shall be used to express conditions, rather than the words "when" or "where;"
- (j) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things;

(k) An administrative body shall use the phrases specified in this subsection:

Do Not Use:	Use:
And/or	"and" for a conjunctive "or" for a disjunctive
Any and all	either word
As provided in this administrative regulation	----
At the time	when
And the same hereby is	is
Either directly or indirectly	----
Except where otherwise provided	State specific exemption.
Final and conclusive	final
Full force and effect	force or effect
In the event that; In case	if
Is authorized; Is empowered	may
Is defined and shall be construed to mean	means
Is hereby required to	shall
It shall be lawful	may
Latin words	Do not use unless medical or scientific terminology.
Null and void and of no effect	void
Order and direct	either word
Provision of law	law
Until such time as	until
Whenever	if

- (l) 1. Unless the authority for an administrative regulation is an appropriation provision that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of an administrative regulation shall be cited.
2. a. If an act has not been codified in the Kentucky Revised Statutes at the time an administrative regulation is promulgated, or if the authority is any branch budget bill, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), sec. (section number)." When an act has been codified, the administrative body shall notify the regulations compiler of the proper

- citation in writing. Upon receipt of such written notice, the regulations compiler shall correct the citation.
- b. For acts of extraordinary sessions, the citation shall be as follows: "(year) (Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section number)." If there is more than one (1) extraordinary session of the General Assembly in the year, the citation shall specify the specific extraordinary session, as follows: "(year) (2d Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section number)."
3. When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation of the Kentucky Revised Statutes in writing. Upon receipt of the written notice, the regulations compiler shall correct the citation.
 4.
 - a. If the statutory authority is an appropriation act, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), Part (part and subpart numbers)."
 - b. If appropriate, the citation of an appropriation act shall include a citation to the appropriate part of the budget memorandum.
 5. If the authority is an executive order, the citation shall be as follows: "EO (year executive order issued)-(number of executive order)."
- (m) If the statutory authority is a federal law, the citation shall be the:
1. United States Code (U.S.C.), if it has been codified; or
 2. Public Law (Pub. L.) and official session laws, if it has not been codified.
- (n) 1. If the statutory authority is a federal regulation codified in the Code of Federal Regulations, the citation shall include the title, part, and section number, as follows: "(title number) C.F.R. (part and section number)."
2.
 - a. If the statutory authority is a federal regulation that has not been codified in the Code of Federal Regulations, the citation shall be to the Federal Register, as follows: "(volume number) Fed. Reg. (page number) (effective date of the federal regulation) (section of Code of Federal Regulations in which it will be codified)."
 - b. When the federal regulation is codified, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.
 3.
 - a. If the statutory authority is a federal regulation that has been amended, and the amendment is not reflected in the current issue date of the volume of the Code of Federal Regulations in which the federal regulation is codified, the citation shall be to the Federal Register as follows: "(federal regulation that has been amended), (volume number) Fed. Reg. (page number) (effective date of the amendment)."
 - b. When the amendment is codified in the appropriate volume of the Code of Federal Regulations, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.
- (o) Citations of items in the "RELATES TO" paragraph of an administrative regulation shall comply with paragraphs (l), (m), and (n) of this subsection.

- (p) *An administrative regulation may cite the popular name of a federal or state law if the popular name is accompanied by the citation required by this paragraph.*

Section 11. KRS 13A.2245 is amended to read as follows:

- (1) An administrative body may incorporate by reference a code or uniform standard if a federal or state statute requires:
 - (a) An administrative body to implement~~{;}~~ or ~~{(b)}—~~a regulated entity to comply with~~{;}~~ the provisions of that code or uniform standard; and
 - ~~(b){(e)}~~—Does not set forth the code or uniform standard, or a comprehensive scheme of regulation.
- (2) If a code or uniform standard is adopted with changes by the administrative body, the administrative body shall file with the regulations compiler a:
 - (a) Copy of the code or uniform standard;
 - (b) Summary listing the pages upon which changes have been made; and (c) Detailed summary of the changes and their effect.

The summaries shall be attached to the back of the proposed administrative regulation.

- (3) If a federal regulation requires an administrative body to adopt, develop, or implement material of a scientific or technical nature that does not lend itself to the format requirements of KRS Chapter 13A, the administrative body may incorporate such material by reference in an administrative regulation as provided by KRS 13A.2251 and 13A.2255.

Section 12. KRS 13A.2251 is amended to read as follows:

- (1) An administrative body shall incorporate material by reference in the last section of an administrative regulation. This section shall include:
 - (a) The title and edition of the material incorporated by reference placed in quotation marks;
 - (b) Information on how the material may be obtained; and
 - (c) A statement that the material is available for public inspection and copying, subject to copyright law, at the main, regional, or branch offices of the administrative body, and the address and office hours of each.
- (2) The section incorporating material by reference shall be titled "Incorporation by Reference".
 - (a) If only one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "(name and edition date of material incorporated) is incorporated by reference."
 - (b) If more than one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "The following material is incorporated by reference: (a) (name and edition date of first item incorporated); and (b) (name and edition date of second item incorporated)."
 - (c) The second subsection of the section incorporating material by reference shall include the following statement: "This material may be inspected, copied, or obtained, *subject to applicable copyright law*, at (name of agency, full address), Monday through Friday, 8:00 a.m. to 4:30 p.m."

- (3) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:
- (a) Relevant programs, statutes, funds, rights, duties, and procedures affected by the material and the manner in which they are affected;
 - (b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and (c) The total number of pages incorporated by reference.
- (4) (a) One (1) copy of the material incorporated by reference shall be filed with the regulations compiler when the administrative regulation is filed.
- (b) Material incorporated by reference shall be placed in a binder. The administrative body shall *write*, stamp, or type, on the front binder cover and on the first page of the material incorporated by reference, the number of the administrative regulation to which material incorporated by reference pertains, the date on which it is filed, and the citation of each item that is included in the binder.
- (c) If the same material is incorporated by reference in more than one (1) administrative regulation, an administrative body may file one (1) copy of the material in a binder. The numbers of the administrative regulations in which the material is incorporated by reference shall be *written*, stamped, or typed on the:
1. Front binder cover; and
 2. First page of the material incorporated by reference.

Section 13. KRS 13A.2255 is amended to read as follows:

When an administrative regulation amends material that had been previously incorporated by reference, the amendment shall be accomplished by submission of:

- (1) An entire new document in which the amendments have been made but are not reflected in the manner specified in *subsection (2) of Section 10 of this Act*~~[KRS 13A.222]~~;
- (2) A summary listing the pages upon which changes have been made, and a detailed summary of the changes and their effect. This summary shall be attached to the administrative regulation; and
- (3) The page or pages of the document in which changes have been made, with the changes accomplished in the manner specified in *subsection (2) of Section 10 of this Act*~~[KRS 13A.222]~~.

Section 14. KRS 13A.240 is amended to read as follows:

- (1) Every administrative body shall prepare and submit to the Legislative Research Commission an original and five (5) duplicate copies of a regulatory impact analysis for every administrative regulation when it is filed with the Commission. The regulatory impact analysis shall include, but not be limited to, the following information:
 - (a) *A brief narrative summary of:*
 1. *What the administrative regulation does;*
 2. *The necessity of the administrative regulation;*

3. *How the administrative regulation conforms to the content of the authorizing statutes; and*
4. *How the administrative regulation currently assists or will assist in the effective administration of the statutes;*

~~[The type and number of individuals, businesses, organizations, and state and local governments affected by the administrative regulation; and]~~

(b) *If this is an amendment to an existing administrative regulation, a brief narrative summary of:*

1. *How the amendment will change the existing administrative regulation;*
2. *The necessity of the amendment to the administrative regulation;*
3. *How the amendment conforms to the content of the authorizing statutes; and*
4. *How the amendment to the administrative regulation will assist in the effective administration of the statutes;*

~~[The direct and indirect costs or savings, including, to the extent available from the public comments received, the:~~

1. ~~Effect on the cost of living and employment in the geographical area in which the administrative regulation will be implemented; and~~
2. ~~Effect on the cost of doing business in the geographical area in which the administrative regulation will be implemented; and~~
3. ~~Compliance, reporting, and paperwork requirements of the administrative regulation on those affected for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second and subsequent years with any factors which might increase or decrease the cost of the administrative regulation, including the effect on competition being noted; and]~~

(c) *The type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation;*~~[The direct and indirect costs or savings and paperwork requirements to the promulgating administrative body for the administration and enforcement of the administrative regulation for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second year with any factors which might increase or decrease the cost of the administrative regulation being noted; and]~~

(d) *An assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment to an existing administrative regulation;*~~[An assessment of any anticipated effect on state and local revenues; and]~~

(e) *An estimate of how much it will cost to implement this administrative regulation, both initially and on a continuing basis;*~~[The source of the revenue to be used for the implementation and enforcement of the administrative regulation; and]~~

(f) *The source of the funding to be used for the implementation and enforcement of the administrative regulation;*~~[To the extent available from the public comments received, the economic impact of the administrative regulation on the geographical area in which~~

~~the administrative regulation will be implemented, and on the state, including the effects of the economic activities arising from the administrative regulation; and]~~

- (g) An assessment of *whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment to an existing administrative regulation*; ~~alternative methods for accomplishing the purpose of the administrative regulation and the reasons why they were rejected in favor of the administrative regulation]; and~~
- (h) *A statement as to whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees* ~~[An assessment of the expected benefits of the administrative regulation; and (i) — A statement:

 1. ~~Identifying the effects of the administrative regulation on the public health and environmental welfare of the geographical area in which the administrative regulation will be implemented and upon the state; and~~
 2. ~~Stating whether there would be a detrimental effect on the environment and public health if the administrative regulation is not implemented; and~~
 3. ~~If there would be a detrimental effect on the environment and public health, an explanation of the detrimental effect; and~~~~
 - (j) ~~— A written statement identifying any statute, rule, regulation, or governmental policy which the administrative regulation may be in conflict with, overlap, or duplicate; and a written statement for the necessity to promulgate the administrative regulation if conflict, overlapping, or duplication is found to exist. The administrative body shall also indicate whether or not any effort has been made to harmonize the administrative regulation with any statute, rule, regulation, or governmental policy with which it has been found to be in conflict].~~

- (2) The Legislative Research Commission shall review all regulatory impact analyses submitted by all administrative bodies, and prepare a written analysis thereof and of the administrative regulation. The Legislative Research Commission may require any administrative body to submit background data upon which the information required by subsection (1) is based, and an explanation of how the data was gathered.

Section 15. KRS 13A.280 is amended to read as follows:

- (1) Following the scheduled hearing date, the administrative body shall give consideration to all written and oral comments received by adjournment of the scheduled public hearing, or by the close of business on the scheduled public hearing date if the public hearing was not held.
- (2) The administrative body shall then file with the commission on or before 12 noon, eastern time, on the fifteenth day following the scheduled hearing date the statement of consideration relating to the administrative regulation.
- (3) (a) Except as provided by paragraph (b) of this subsection, if the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph (c) of this subsection to the regulations compiler by noon on the fifteenth day following the hearing.
- (b) If an administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by

notifying the Commission in writing on or before 12 noon of the fifteenth day following the public hearing. The administrative body shall file with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the public hearing date the items specified in paragraph (c) of this subsection.

- (c) 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from the hearing, or resulting from written or oral comments received at the hearing or otherwise;
2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and
3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.
- (4) The format for the statement of consideration shall be as follows:
- (a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;
- (b) ***The statement of consideration shall have a two (2) inch top margin***~~[A space no smaller than two (2) by three (3) inches in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the statement];~~
- (c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and the name of the promulgating administrative body. The heading shall be centered~~[three (3) inches from the top of the first page]~~. This shall be followed by the words "Not Amended After Hearing" or "Amended After Hearing," whichever is applicable;
- (d) If a hearing has been held the heading is to be followed by:
1. A statement setting out the date, time and place of the hearing;
 2. A list of those attending the hearing ***or who have submitted written comments*** and the organization, agency, or other entity represented, if applicable; and
 3. The name and title of the representative of the promulgating administrative body;
- (e) If a hearing has not been held, but written or oral comments have been received:
1. A list of those who have submitted written or oral comments and the organization, agency, or other entity represented, if applicable; and
 2. The name and title of the representative of the promulgating administrative body responding to the written or oral comments;
- (f) Following the general information, the promulgating administrative body shall summarize the written and oral comments received and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and
 2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;
- (g) Following the summary and comments, the promulgating administrative body shall summarize the statement and the action taken by the administrative body as a result of the public hearing;
- (h) If the promulgating administrative body amends the administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and
- (i) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.
- (5) (a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration as required by subsection (2) of this section with the regulations compiler by noon on the fifteenth day following the hearing.
- (b) If the statement of consideration is not forwarded to the regulations compiler at least ten (10) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.
- (6) If the administrative regulation is amended pursuant to subsection (3) of this section the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.
- (7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.
- Section 16. KRS 13A.290 is amended to read as follows:
- (1) Except as provided by KRS 158.6471 and 158.6472, within forty-five (45) days after publication of an administrative regulation in "The Administrative Register," or within forty-five (45) days of the receipt of a statement of consideration, the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation.
 - (2) The meetings shall be open to the public.
 - (3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.
 - (4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the

administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly-scheduled meeting of the subcommittee.

- (5) Following the meeting and before the next regularly-scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy thereof shall be sent to the promulgating agency. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.
- (6) (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly-scheduled meeting, assign the matter to:
1. A subcommittee of appropriate jurisdiction over the subject matter; *or*
 2. ***During a session of the General Assembly, the House of Representatives and Senate standing committees of appropriate jurisdiction over the subject matter.***
- (b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the matter is assigned shall notify the regulations compiler:
1. Of the date, time, and place of the meeting at which it will consider the matter; or
 2. That it will not meet to consider the matter.
- (7) Within thirty (30) days of the assignment, the subcommittee shall hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.
- ~~(8) An administrative body shall comply with subsection (4) of this section.~~
- ~~(9) Except as provided in subsection (9) of this section, a~~ ~~the~~ subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee ~~as provided in KRS 13A.030(2) and (3).~~
- (9) *During a session of the General Assembly, standing committees of the Senate and House of Representatives shall agree in order to amend an administrative regulation or to find an administrative regulation deficient pursuant to KRS 13A.030(2) and (3) by:***
- (a) *Meeting separately; or***
 - (b) *Meeting jointly. If the standing committees meet jointly, it shall require a majority vote of Senate members voting and a majority of House members voting in order to take action on the administrative regulation.***
- (10) (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.

- (b) Following the meeting and before the next regularly-scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the Administrative Register.

Section 17. KRS 13A.300 is amended to read as follows:

- (1) The administrative body which has promulgated an administrative regulation may request at a meeting of a subcommittee that consideration of the administrative regulation be deferred by the subcommittee. Upon receipt of the request, the subcommittee may defer consideration of the administrative regulation.
- (2) ~~The deferring of an administrative regulation shall have the same effect as an action under KRS 13A.310.~~
- (3) ~~A subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation.~~
- (3) ~~(4)~~ Except as provided in subsections (1) *and* (2) ~~to (3)~~ of this section, neither the promulgating administrative body, the Commission, nor a subcommittee shall defer any action which is required to be taken pursuant to this chapter.
- (4) ~~(5)~~ An administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee that is reviewing the administrative regulation. The subcommittee shall consider the administrative regulation as if it had met all other requirements of filing. Repromulgation shall not be required in such cases.

Section 18. KRS 13A.310 is amended to read as follows:

- (1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.
- (2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.
- (3) (a) An administrative regulation shall be repealed only by the promulgation of an administrative regulation that:
1. Is titled "Repeal of (state number of administrative regulation to be repealed)"; ~~and~~
 2. Contains the reasons for repeal in the "NECESSITY, ~~AND~~ FUNCTION, *AND CONFORMITY*" paragraph;
 3. *Includes in the body of the administrative regulation, a citation to the number and title of the administrative regulation or regulations being repealed; and*
 4. *Meets the filing and formatting requirements of Section 8 of this Act.*
- (b) On the effective date of an administrative regulation that repeals an administrative regulation, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.

- (c) An administrative body may repeal more than one (1) administrative regulation in an administrative regulation promulgated pursuant to paragraph (a) of this subsection if the administrative regulations being repealed are contained in the same chapter of the Kentucky Administrative Regulations Service.
- (4) An ordinary administrative regulation may be withdrawn by the promulgating agency at any time prior to its adoption. An ordinary administrative regulation that has been found deficient may be withdrawn by the promulgating agency at any time prior to receipt by the regulations compiler of the determination of the Governor made pursuant to **Section 19 or 22 of this Act**~~[KRS 13A.330]~~. If an ordinary administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.
- (5) Once an ordinary administrative regulation is withdrawn it shall not be reinstated, except by repromulgation as a totally new matter.

Section 19. KRS 13A.330 is amended to read as follows:

The provisions of this section shall apply to administrative regulations that are assigned pursuant to subsection (6)(a)1. of Section 16 of this Act.

- (1) An administrative regulation that has not been found deficient by a legislative subcommittee shall be considered as adopted and shall become effective:
 - (a) Upon adjournment on the day a subcommittee meets to consider the administrative regulation pursuant to KRS 13A.290(7) if:
 - 1. The administrative regulation is on the agenda of the subcommittee meeting;
 - 2. A quorum of the subcommittee is present; and
 - 3. The subcommittee:
 - a. Considers the administrative regulation; or
 - b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; or
 - (b) If a subcommittee fails to meet within thirty (30) days of assignment of an administrative regulation as provided in KRS 13A.290(7), or does not place the administrative regulation on the agenda of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period.
- (2) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit to the Governor:
 - (a) A copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate; and
 - (b) A request that the Governor determine whether the administrative regulation shall:
 - 1. Be withdrawn;
 - 2. Be withdrawn and amended to conform to the finding of deficiency; or
 - 3. Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.

- (3) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit copies of its transmittal to the Governor to the regulations compiler.
- (4) The Governor shall transmit his determination to the Commission and the regulations compiler.
- (5) An administrative regulation that has been found deficient by a legislative subcommittee shall be considered as adopted and become effective after:
 - (a) *1.* The subcommittee of appropriate jurisdiction to which an administrative regulation was assigned pursuant to KRS 13A.290(6) has:
 - a.* ~~1.~~ *Considered* ~~[Reviewed]~~ the administrative regulation; ~~[or]~~
 - b. Failed to consider the administrative regulation and failed to agree to defer its consideration of the administrative regulation; or*
 - c.* ~~2.~~ Failed to meet within thirty (30) days of such assignment; and
 - 2.* ~~(b)~~ The regulations compiler has received the Governor's determination; that the administrative regulation shall become effective pursuant to the provisions of this section notwithstanding the finding of deficiency; or
 - ~~(b)~~ ~~(e)~~ The legislative subcommittee that found the administrative regulation deficient subsequently determines that the administrative regulation is not deficient, provided that this determination was made prior to receipt by the regulations compiler of the Governor's determination.

Section 20. KRS 13A.333 is amended to read as follows:

- (1) If an administrative regulation is found deficient by a legislative subcommittee under the provisions of KRS Chapter 13A during a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly.
- (2) If an administrative regulation is found deficient by a legislative subcommittee under the provisions of KRS Chapter 13A during the interim between regular sessions of the General Assembly, it shall expire on adjournment of the next succeeding regular session of the General Assembly.
- (3) The provisions of this section shall apply to all administrative regulations found deficient ~~including those found deficient during the 1990 Regular Session of the General Assembly~~.
- (4) If deferral of an administrative regulation at the request of an administrative body would result in its adoption after adjournment of a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly.
- (5)
 - (a) An administrative body may prepare legislation proposing the enactment of the provisions of an administrative regulation found deficient by a subcommittee.
 - (b) Prior to the convening of the General Assembly in regular session, it shall notify the regulations compiler in writing of its intent to prepare legislation.
 - (c) It shall submit such legislation to the Legislative Research Commission.
 - (d) The proposed legislation may be introduced by any member of the General Assembly.

- (6) (a) An administrative body shall be prohibited from promulgating an administrative regulation that is identical to or substantially the same as an administrative regulation which has expired pursuant to subsections (1), (2), and (4) of this section. This prohibition shall be effective for a two (2) year period running from the date of expiration of the administrative regulation.
- (b) An administrative regulation shall be determined to be identical to or substantially the same as an administrative regulation that expired if it is deficient in the same manner as the administrative regulation that expired because it was found deficient.
- (c) An administrative regulation shall not be determined to be identical to or substantially the same as an administrative regulation that expired if:
1. It contains the identical or substantially similar language or provisions that gave rise to the finding of deficiency of the expired administrative regulation; and
 2. The identical or substantially similar language or provisions that gave rise to the finding of deficiency of the expired administrative regulation are required by state law, or federal law or regulation, or court decision.

Section 21. KRS 13A.335 is amended to read as follows:

- (1) An administrative regulation found deficient by a subcommittee shall not expire if:
- (a) A subsequent amendment of that administrative regulation is filed with the Commission by the administrative body;
 - (b) The subcommittee that found the administrative regulation deficient approves a motion that the subsequent amendment corrects such deficiency; and
 - (c) Any subcommittee that reviews the administrative regulation under the provisions of KRS Chapter 13A finds that the administrative regulation is not deficient.
- (2) An administrative regulation found deficient by the Administrative Regulation Review Subcommittee shall not expire if:
- (a) The administrative regulation is amended to correct the deficiency at a meeting of the subcommittee to which it was assigned by the Commission;
 - (b) That subcommittee does not determine that the administrative regulation is deficient for any other reason; and
 - (c) The Administrative Regulation Review Subcommittee approves a motion that the deficiency has been corrected and that the administrative regulation should not expire.
- (3) An administrative regulation found deficient by a subcommittee shall not expire if the subcommittee:
- (a) Reconsiders the administrative regulation and its finding of deficiency; and (b) Approves a motion that the administrative regulation is not deficient.
- (4) (a) If an existing administrative regulation has been amended and found deficient by a subcommittee, it shall not expire if the:
1. Administrative regulation was found deficient due to the amendment;

2. Promulgating administrative body has withdrawn the proposed amendment of the existing administrative regulation; and
 3. Regulations compiler has not received the Governor's determination pursuant to *Section 19 or 22 of this Act* ~~[KRS 13A.330]~~.
- (b) If an administrative regulation has been found deficient by a subcommittee, the regulations compiler shall add the following notice to the administrative regulation: "This administrative regulation shall expire on adjournment of the next regular session of the General Assembly." This notice shall be the last section of the administrative regulation.
- (c) If an administrative regulation has been found deficient by a subcommittee, subsequent amendments of that administrative regulation filed with the Commission shall contain the notice provided in paragraph *(b)* ~~(a)~~ of this subsection.
- (d) If an administrative regulation that has been found deficient by a subcommittee has been amended and determined not to be deficient under the provisions of this section, the regulations compiler shall delete the notice required by paragraph *(b)* ~~(a)~~ of this subsection.

SECTION 22. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

The provisions of this section shall apply to administrative regulations that are assigned pursuant to subsection (6)(a)2. of Section 16 of this Act.

- (1) *An administrative regulation that has not been found deficient by both standing committees shall be considered as adopted and shall become effective:*
- (a) *Upon adjournment on the day the second standing committee meets to consider the administrative regulation pursuant to Section 16 of this Act if:*
 1. *The administrative regulation is on the agenda of the standing committee meeting;*
 2. *A quorum of the standing committee is present;*
 3. *The standing committee:*
 - a. *Considers the administrative regulation; or*
 - b. *Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; and*
 4. *Pursuant to subsection (9) of Section 16 of this Act, the decision of the standing committee to amend the administrative regulation is the same as the decision of the corresponding standing committee of the other chamber to amend the administrative regulation;*
 - (b) *Upon adjournment on the day the standing committee meeting jointly meets to consider the administrative regulation pursuant to Section 16 of this Act if:*
 1. *The administrative regulation is on the agenda of the joint standing committee meeting;*
 2. *A quorum of the joint standing committee is present;*

3. *The joint standing committee meeting:*
 - a. *Considers the administrative regulation; or*
 - b. *Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; or*
- (c) *If a standing committee fails to meet within thirty (30) days of assignment of an administrative regulation as provided in Section 16 of this Act, or does not place the administrative regulation on the agenda of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period.*
- (2) *If an administrative regulation has been found deficient by both standing committees, or by the standing committees meeting jointly, the standing committees, or the standing committees meeting jointly shall transmit to the Governor:*
 - (a) *A copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate; and*
 - (b) *A request that the Governor determine whether the administrative regulation shall:*
 1. *Be withdrawn;*
 2. *Be withdrawn and amended to conform to the finding of deficiency; or*
 3. *Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.*
- (3) *If an administrative regulation has been found deficient by the standing committees or by the standing committees meeting jointly, the standing committees or standing committees meeting jointly shall transmit copies of its transmittal to the Governor to the regulations compiler.*
- (4) *The Governor shall transmit his determination to the Commission and the regulations compiler.*
- (5) *An administrative regulation that has been found deficient by the Administrative Regulation Review Subcommittee, the standing committees or by the standing committees meeting jointly shall be considered as adopted and become effective after:*
 - (a) 1. *The standing committees of appropriate jurisdiction to which an administrative regulation was assigned pursuant to Section 16 of this Act has:*
 - a. *Considered the administrative regulation;*
 - b. *Failed to consider the administrative regulation and failed to agree to defer its consideration of the administrative regulation; or*
 - c. *Failed to meet within thirty (30) days of such assignment; and*
 2. *The regulations compiler has received the Governor's determination that the administrative regulation shall become effective pursuant to the provisions of this section notwithstanding the finding of deficiency; or*
- (c) *The subcommittee, standing committees, or standing committees meeting jointly that found the administrative regulation deficient subsequently determines that the*

administrative regulation is not deficient, provided that this determination was made prior to receipt by the regulations compiler of the Governor's determination.

Section 23. KRS 13A.015 is amended to read as follows:

- (1) Except as provided by subsection (6) of this section, prior to the promulgation of an administrative regulation, an administrative body shall, for each administrative regulation it intends to promulgate:
 - (a) File with the regulations compiler the original and five (5) copies, and, if available, an electronic version of a notice of its intent to promulgate an administrative regulation for publication in the administrative register; and
 - (b) Hold a public hearing and receive oral or written comments on the proposed administrative regulation as provided by this section.
- (2) Prior to filing a notice of intent to promulgate a new administrative regulation, an administrative body shall obtain from the regulations compiler a number for the new administrative regulation.
- (3) The notice of intent shall include:
 - (a) A statement that the administrative body intends to promulgate an administrative regulation;
 - (b) The number and the specific subject matter of the proposed administrative regulation;
 - (c) A statement that the administrative body will hold a public hearing if a public hearing is requested at least ten (10) calendar days prior to the date of the public hearing, in writing, by five (5) persons, or by an administrative body, or by an association having at least five (5) members, provided that a minimum of five (5) persons, or one (1) person representing an administrative body or association, agree to be present at the public hearing:
 1. No sooner than the twenty-first day nor later than the last workday of the month in which the notice of intent to promulgate is published in the Administrative Register;
 2. At which it will accept oral and written comments from any interested person;
 - (d) The name, address, telephone number, and facsimile number to whom the written request for a public hearing and written comments shall be sent;
 - (e) The date, time, and place of the public hearing;
 - (f) The following information relating to the proposed administrative regulation:
 1. The statutory authority for the administrative regulation;
 2. A summary of the administrative regulation, including how an existing administrative regulation will be amended by the proposed administrative regulation, if applicable;
 3. A statement setting forth the necessity for promulgating the administrative regulation, and a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b);

4. A statement of the benefits expected from the administrative regulation; and
 5. How the administrative regulation will be implemented.
- (4) (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified of the intent of the administrative body to promulgate an administrative regulation.
- (b) A copy of the notice of intent shall be mailed:
1. To every person who has filed this form;
 2. On the date the notice is published in the Administrative Register.
- (5) (a) An administrative body shall file the original and five (5) copies of the notice of its intent to promulgate an administrative regulation with the regulations compiler.
- (b) The date a notice of intent to promulgate an administrative regulation is published in the Administrative Register shall be governed by the provisions of KRS 13A.050(3) and 13A.150.
- (c) A notice of intent shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches, and single-spaced. The first page shall have a two (2) inch top margin ~~[, and one (1) inch side and bottom margins]~~. Subsequent pages shall have one (1) inch top, bottom, and side margins. The notice of intent shall be typed in a twelve (12) point font approved by the regulations compiler.
- (6) (a) A notice of intent shall not be filed for an emergency administrative regulation that will not be replaced by an ordinary administrative regulation.
- (b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation, the notice of intent for the ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced.
- (7) If a notice of intent to promulgate an administrative regulation has been filed, a subsequent notice of intent on the same administrative regulation shall not be filed unless the first notice of intent has been withdrawn.

Section 24. KRS 13A.315 is amended to read as follows:

- (1) An administrative regulation shall be withdrawn and shall not be reviewed by a legislative subcommittee if:
 - (a) It has not been reviewed or approved by the official or administrative body with authority to review or approve;
 - (b) An item is not filed on or before a deadline specified by this chapter; or
 - (c) The administrative body has failed to comply with the provisions of this chapter governing the filing of administrative regulations, public hearings, and the statement of consideration.
- (2) An administrative regulation which has not complied with all the provisions of this chapter and any regulations promulgated under this chapter shall be considered procedurally defective and void.

- (3) (a) An administrative regulation that has been found deficient by a subcommittee shall be withdrawn immediately by the promulgating administrative body if, pursuant to *Section 19 or 22 of this Act* ~~[KRS 13A.330]~~, the Governor has determined that it shall be withdrawn.
- (b) The promulgating administrative body shall notify the regulations compiler in writing and by telephone that it is withdrawing an administrative regulation governed by the provisions of this subsection.
- (c) The written withdrawal of an administrative regulation governed by the provisions of this subsection shall be made in a letter to the regulations compiler in the following format: "Pursuant to (*subsection (2)(b) of Section 19 of this Act or subsection (2)(b) of Section 22 of this Act*) ~~[KRS 13A.330(2)(b)]~~, the Governor has determined that (administrative regulation number and title) shall be (withdrawn, or withdrawn and amended to conform to the finding of deficiency, as applicable). The (name of promulgating administrative body) withdraws (administrative regulation number and title)."
- (d) An administrative regulation governed by the provisions of this subsection shall be considered withdrawn upon receipt by the regulations compiler of the written withdrawal.

Section 25. KRS 194A.050 is amended to read as follows:

- (1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.
- (2) The secretary shall utilize the Public Health Services Advisory Council to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless they are issued under the authority of the secretary, and the secretary shall not delegate that authority. ~~[All administrative regulations prepared within the cabinet shall be attested as to form and legality by the Office of the General Counsel.]~~
- (3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars (\$100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. All fees collected for inspections shall be deposited in the State Treasury and credited to a revolving fund account to be used for administration of those programs of the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

Governor's veto overridden, April 14, 2000